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10/751,362

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Radhakrishnan Janardanan Nair

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EXAMINER

CHAPMAN, GINGER T

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/751,362	<b>Applicant(s)</b> NAIR ET AL.	
	<b>Examiner</b> Ginger T. Chapman	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,9,11,22-30,32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) 25-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9,11,22-30,32 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Status of the Claims***

1. Claims 1, and 30 are amended, claims 33 and 34 are added, claims 25-29 are withdrawn from consideration as being drawn to a nonelected invention, claims 1, 9, 11, 22-30 and 32-33 are pending in the application, claims 1, 9, 11, 22-24 are examined on the merits.

### ***Response to Arguments***

1. Applicant's arguments filed 11/30/2009 have been fully considered but they are not persuasive. Applicant argues the following:

2. I. Independent claims 1 and 30 have been amended to recite the article include "a reference mark", Applicants believe Pargass teaches away from including a reference mark because Pargass teaches removing the mark to provide amore aesthetically pleasing article, Applicant cites Pargass at column 1, lines 51-54 and at column 3, lines 44-47, "the inclusion of the reference markers on the final assembled product can detract from the aesthetics of the product and are therefore not desirable."; "the reference markers in some instances are aesthetically displeasing, so leaving them on the final assembled absorbent article can detract from the presentation of the article"

2. This article is not persuasive for the following reasons:

3. Applicants' arguments are drawn to the claims as amended and are answered in the rejection below; see paragraphs 15-17 for detailed analysis. In particular, as an initial matter, the disclosure by the reference of a preferred embodiment does not teach away from the entire

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disclosure of the patent, all of which must be considered in the analysis of obviousness. *In re Burckel*, 201 USPQ 67, 70.

4. Here, Pargass is directed to solving the problem of providing an aesthetically pleasing final article to the consumer; however Pargass discloses that the reference marks, which may detract from the aesthetics of a final article, are nonetheless required during the assembling and manufacture process in order to bring the individual component of the article into proper alignment positions with respect to each other. Pargass attempts to solve this problem by trimming the marks from the final product.

5. As detailed *supra* in paragraphs 15-17, Noll is analogous art and is directed to solving the same problem Pargass is solving. Noll discloses that equivalent methods in the art of solving this problem are, *inter alia*, to trim the marks, to incorporate the marks into the graphics, disclosed in the instant Specification at paragraph [0086] as a suitable embodiment of the instant claimed mark, to apply the mark in a manner that is not visible to a consumer, by providing the marks as embossments or applying the marks as functional properties such as strength, softness, caliper, or by comprising the marks of additives which increase adhesion, softness, hydrophilicity, hydrophobicity. Therefore, one of ordinary skill in the art would be motivated by the teaching of equivalent methods by Noll to solve the same problem and obtain the same result of providing an aesthetically pleasing article having its components in proper alignment position with respect to each other during the assembly of the article of Noll to modify the methods of Pargass to obtain instant claimed article.

6. Additionally, as noted *infra*, the limitation of “a reference mark” is not supported by the Specification as originally filed.

***Drawings***

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “**reference mark**” see claims 1 and 30 (paragraph [0084] of the instant disclosure stating that "framing marks" are not shown in the figures), must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

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pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1 and 30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

10. Careful review of the instant Specification, in particular at paragraphs [0084-86, 87 and 91] reveals the disclosure of a "framing mark", however the Specification contains no disclosure of a "reference mark".

#### ***Response to Amendment***

11. The amendment filed 14 July 2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "a reference mark".

12. Applicant is required to cancel the new matter in the reply to this Office Action.

#### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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14. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. Claims 1, 9, 11, 22-24, 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pargass et al (US 6,558,499) in view of Yeo (US 5,503,076) and further in view of Noll et al (6,273,313 B1).

16. With respect to claims 1 and 30, Pargass et al disclose an absorbent product (10) comprising a package and at least n absorbent articles contained in the package, wherein n is greater than 10 (column 5, lines 3-5), each of the absorbent articles having a body contacting surface (14) and a garment contacting surface (22) opposing the body contacting surface, each of the absorbent articles comprising: a component material (26) (c. 7, l. 54; fig. 3; c. 8, l. 27) disposed between the body contacting surface (14) and a garment contacting surface (22), the component material (26) having a printed graphic (21, 21') printed directly on the garment contacting surface comprising the outer layer of the backsheet (figs. 1 and 2); wherein the printed graphic (21, 21') of each of the n absorbent articles is different from the graphic of each of the remaining absorbent articles (c. 15, ll. 44-52 and c. 15, ll. 60 to c. 16, ll. 1-2) and all of the printed graphics (21, 21') of the n absorbent articles have a predetermined association (c. 10, ll. 17-21; see also c. 6, ll. 59; c. 7, ll. 12-15; c. 10, ll. 36-37). See also c. 2, ll. 9-13, disclosing that printed graphics having a predetermined association are known in the diaper art.

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17. Pargass discloses the claimed invention except for the backsheet of each of the articles comprises a microporous film material wherein the graphic is printed directly on the garment facing surface of the film and the backsheet further comprises a nonwoven material joined with the garment facing surface of the film and the graphic is visible through the film. As best depicted in Figure 1, Yeo teaches a diaper 20 backsheet 40 comprising a microporous film (c. 5, ll. 49-50) with graphics printed directly on the garment facing surface of the film (c. 8, ll. 44-48; teaching it is preferable to print directly on the film surface because it is smoother than the non-woven surface and therefore permits greater print pattern definition) and the printed graphic is visible through the non-woven material (c. 4, ll. 22-23);

18. and the backsheet 10 further comprises a nonwoven material 12 joined with the film and the graphic is visible through the nonwoven (c. 4, ll. 22-24). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the backsheet of Pargass as taught by Yeo since Yeo states, at c. 8, ll. 45-47 and at c. 4, ll. 26-27, that the advantage of forming the article with this design is that the microporous film provides a smooth surface to support multi-colored printed graphics and the nonwoven protects the graphic from abrasion and provides a more cloth-like look and feel to the outer surface of the diaper.

19. The examiner notes that the limitation of how the graphic is printed refers to the method of printing and does not change the structure of the article having a printed graphic on it.

20. Pargass discloses the claimed invention except for expressly disclosing a reference mark. Pargass, at column 1, lines 35-40, discloses that methods for bringing the individual components comprising the absorbent article in registration with each other to sense the position of the components in order to properly position them with respect to each other; at column 5, lines 25-



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40, provides motivation for reference markers to corresponding to the graphic components to be positioned on the article; at column 1, lines 48-54, provides motivation for reference marks that do not need to be sensed downstream in the production line and for reference marks that do not detract from the aesthetics of the article if they are included in the final product; and at column 8, lines 40-63, provides motivation for reference marks 21a that correspond with the graphics 21 and reference marks 21a and reference marks 21a are positioned relative to each other such that at least one reference mark 21a is operatively associated with the graphic 21, however Pargass discloses an additional step of removing the reference mark from the article prior to completion; thus Pargass provides motivation for a reference mark that does not detract from the aesthetics of the article and can be sensed upstream in the production line.

21. Noll, at column 4, lines 64-65, provides motivation for reference marks that do not detract from the aesthetics of the article and, at column 1, lines 28-29, provides motivation for reference marks that can be sensed upstream. In particular, Noll, at column 1, lines 9-11, provides motivation for controlling the location of indicia, i.e. graphics on moving webs during cutting and folding operations, which are used for absorbent articles. At column 2, lines 28-29, Noll teaches providing reference marks that are sensed upstream in the production line; at column 4, lines 19-21, teaches incorporating the reference marks into the indicia /graphics desired to be placed on the article, disclosed in the instant Specification at [0086] as a suitable embodiment of the instant claimed “reference marks”; at lines 62-67 to column 5, lines 1-5, teaches that the indicia comprising the graphics can include the reference marks such that the graphics and reference marks are aesthetically pleasing and can comprise either a printed mark that is the final graphic and can also comprise reference marks comprising embossing or that are

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applied in a manner affecting inherent properties of the web / sheet such as caliper, strength, softness; at column 5, lines 23-26, that the reference mark can comprise additives which increase the adhesion, softness, wet strength, hydrophobicity, hydrophilicity, or which functionally affects any other property of the sheet; at column 6, lines 42-55, teaches the embodiments wherein the reference marks are removed from the article prior to presenting the article to the consumer such as the embodiments disclosed by Pargass; thus teaching equivalent methods of providing reference marks for an aesthetically pleasing article and thus the prior art recognizes the substitution of equivalent methods for providing reference marks in aesthetically pleasing articles, see *In re Siebentritt*, 152 USPQ 618 (CCPA 1967).

22. As best depicted in Figure 2, Noll teaches an article comprising a reference mark 45 printed directly on the sheet together with the graphics 45, disclosed in the instant Specification at paragraph [0086] as a suitable embodiment of the instant claimed mark, thereby providing an aesthetically pleasing article by equivalent methods known in the art. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the reference marks of Pargass as taught by Noll since Noll states, at the column 4, line 65 and column 2, lines 28-29, that the benefit of providing the mark in this manner solves the problem of providing reference marks which do not detract from the aesthetics of the final article.

23. With respect to claim 9, reciting the themes include cartoon characters and other various themes, this limitation is drawn to the content of the printed matter graphics. With respect to printed matter, the critical question is whether any new and unobvious relationship functional relationship exists between the printed graphic and the substrate, as per MPEP § 2112.01, III. Here, both the instant and the prior art graphics are printed on microporous film with nonwoven

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material comprising the outer cover of the article and the printed graphic is visible through the nonwoven. Outer covers are known in the art to comprise laminates of films and nonwovens in multiple layers, and therefore the claimed graphics do not define any new and unobvious functional relationship between the printed matter and the substrate. Therefore the prior art anticipates the claimed limitation in accordance with § MPEP 2112.01, III, as reproduced *infra*.

### **III. PRODUCT CLAIMS – NONFUNCTIONAL PRINTED MATTER DOES NOT DISTINGUISH CLAIMED PRODUCT FROM OTHERWISE IDENTICAL PRIOR ART PRODUCT**

Where the only difference between a prior art product and a claimed product is printed matter that is not functionally related to the product, the content of the printed matter will not distinguish the claimed product from the prior art. *In re Ngai*, 367 F.3d 1336, 1339, 70 USPQ2d 1862, 1864 (Fed. Cir. 2004) (Claim at issue was a kit requiring instructions and a buffer agent. The Federal Circuit held that the claim was anticipated by a prior art reference that taught a kit that included instructions and a buffer agent, even though the content of the instructions differed.). See also *In re Gulack*, 703 F.2d 1381, 1385-86, 217 USPQ 401, 404 (Fed. Cir. 1983) ("Where the printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the prior art in terms of patentability .... [T]he critical question is whether there exists any new and unobvious functional relationship between the printed matter and the substrate."). MPEP § 2112.01, III.

24. It is well known in the packaging art to provide packaging elements with ornamental graphical and product information to induce potential consumer interest. Therefore the selection of graphics would have been within the level of ordinary skill and obvious for the reason of providing advertisement, identification or information about the product or ornamental graphics to induce consumer interest in the article. Additionally, the content of the graphics is purely a

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matter of choice, when there is a variety of possible graphics, it means the designer can choose whatever graphics he desires. Therefore the theme, i.e. content of the graphics does not lend additional patentable weight because if articles were patented based on differences in graphics, multiple patents could issue indefinitely for the same article by simply changing the content of the graphic.

25. With respect to claim 11, Pargass et al disclose n is selected from 11 to 120 (c. 5, ll. 4-5)

26. With respect to claims 22 and 32, Pargass discloses the claimed invention except for inkjet printed graphics. Yeo teaches inkjet graphics (c. 9, ll. 7-9). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to print the graphics of Pargass by inkjet printing as taught by Yeo since Yeo states, at c. 8, ll. 66-67 and c. 9, ll. 5-10, that the advantage of using inkjet printing is that the process can handle multi-color printing and can print directly on a microporous film with no fouling of equipment and provides bright colors and sharp patterns.

27. With respect to claims 23 and 24, Pargass discloses the claimed invention except for the sheet of material extending from the first to second waist region is microporous film and the graphic is printed directly on the garment facing surface of the film as recited in claim 23, and a nonwoven material joined with the garment facing surface of the film and the printed graphic is visible through the material. As best depicted in Figures 2 and 3, Yeo teaches microporous film 14 and the graphics (fig. 3) printed directly thereon, a nonwoven material 12 joined thereto and the graphic is visible through the material 12 (c. 4, ll. 20-30). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the article of Pargass as taught by Yeo since Yeo states, at c. 4, ll. 21-30, that the advantage of

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forming the article with this design is that it provides colorful graphics which are visually appealing; the microporous film provides a smooth surface to support multi-colored printed graphics and the nonwoven protects the graphic from abrasion and provides a more cloth-like look and feel to the outer surface of the diaper.

28. Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pargass et al (US 6,558,499) in view of Yeo (US 5,503,076) in view of Noll et al (6,273,313 B1) and further in view of Stavrulov (WO 00/13632

29. With respect to claims 33 and 34, the combination of Pargass, Yeo and Noll disclose the claimed invention except for the predetermined association includes a common theme and the articles are stacked in the package in a randomly selected order. The limitation of a “predetermined association includes a common theme” is not a structural limitation of the article and therefore does not serve to further limit the article.

30. The dictionary definition of “predetermined” is “to decide something at an earlier time” (Cambridge International Dictionary of English). The dictionary definition of “association” is, *inter alia*: something linked in memory or imagination with a thing or person; the process of forming mental connections or bonds between sensations, ideas, or memories (Merriam-Webster Online Dictionary). The dictionary definition of “theme: is “a subject or topic of discourse or of artistic representation; a specific and distinctive quality, characteristic or concern (Merriam-Webster Online Dictionary). Therefore the limitation of a predetermined association including a common theme is not a structural limitation of the article but rather is drawn to a mental process and therefore does not lend additional patentable weight.

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31. Pargass discloses the claimed invention except for the articles are stacked in the package in a randomly selected order. The order in which the diaper articles are placed in the package is not a structural limitation of the product but is a matter of intended use. In apparatus, article and composition claims, intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. See MPEP § 2111.02. The intended use may further limit the claim if it does more than merely state purpose or intended use.

32. The decision of how to package the diapers in randomly selected orders or non-randomly selected orders is the result of a mental process, i.e. selecting how to distribute and sell the diapers is a marketing strategy of offering for sale products packaged in a manner which makes the purchase thereof attractive to a consumer. For example, the diapers in the package can be taken out of the package and rearranged in an entirely different non-random or random order then replaced into the package; each diaper can also be provided in a single package. The structural elements of the diapers do not change because their order in the package is changed thus the order in which the diapers are placed in the package is irrelevant to the diaper structure. Therefore this limitation does not lend additional patentable weight.

33. If products were patented based on simply changing the order in which they are placed in a package, multiple patents could issue indefinitely for the same product merely by placing them in a package in a different order.

34. Finally, the articles or Pargass are fully capable of being placed in a package in a randomly selected order.

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35. In the alternative, Pargass discloses the claimed invention except for the printed graphics are printed in a randomly selected order. The examiner notes the dictionary definition of "random":

36. Main Entry: **ran·dom**

37. Pronunciation: \ˈran-dəm\

38. Function: *noun*

39. Etymology: Middle English, succession, surge, from Anglo-French *randun*, from Old French *randir* to run, of Germanic origin; akin to Old High German *rinnan* to run — more at RUN

40. Date: 1561

: a haphazard course

— **at random** : without definite aim, direction, rule, or method <subjects chosen *at random*>

41. (source: Merriam Webster Online Dictionary).

42. Stavrulov teaches absorbent articles comprising graphics wherein the graphics are printed in a randomly selected order. Stavrulov teaches that the graphics can be either in a randomly selected order or non-randomly selected order as desired by the designer depending on the intended end use, i.e. such as graphics for informational, educational, and instructive or for entertainment and amusement, and the number of articles being provided to the consumer. Stavrulov teaches non-random graphics such as: graphics and text linked by common subjects, ideas, a series of pictures linked by a common plot (p. 5, p. 9), and consecutive stages from Disney cartoons (p. 11), i.e. a story told in sequential order which is not random.

43. Stavrulov teaches random graphics such as fragments of text and titles of literary works (p. 2), interesting trivia facts and observations, advice given – advice given would necessarily be random since the particular advice provided in any given graphic would not be related in any

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way to any particular situation the consumer may need to be advised in at the moment they encounter any particular graphic (p. 5); puzzles and rebuses, conundrums, patterns (patterns can be ordered patterns or random patterns, and can be abstract meaningless patterns), ornaments (p. 5); independent images, which suggests images not associated with each other in any way (p. 8); graphics of automobile models, breeds of trees, architectural monuments, textual fragments (p. 9); unequal ornaments and riddles with a degree of dissimilarity and which do not coincide with each other (p. 11).

44. Stavrulov teaches that the type of graphics and their random or non-random nature depends on the prospective purpose and kinds of households the graphics are intended to attract. Stavrulov further teaches that these graphics can have a positive effect of the emotions of a consumer to attract the consumer to purchase and enjoy the articles (p. 4) and that if the graphics become familiar and routine, the attractiveness to the consumer may diminish with time (p. 3), thus providing motivation for a degree of randomness to keep the articles and graphics exciting for the purchasers thereof.

45. Therefore, in view of the teachings of Stavrulov, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the graphics of Pargass, Yeo and Noll in either randomly selected order or in non-randomly selected order in order to provide the benefits Stavrulov discloses. The examiner notes that when there is an almost limitless variety of possible graphics to choose from, the choices illustrate that the graphics provided is purely a matter of choice; when there is a variety of possible choices, it means that the designer can choose any graphics in any order that he wants.



***Conclusion***

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fowler et al (US 5,795,280) teaches reference marks; Hensley et al (US 6,354,984 B1) teaches reference marks; Sebastian (US 2005/0186416 A1) teaches microporous film and non-woven backsheets [0037] and inkjet printing on the film; Weber et al (US 6,352,528 B1) teaches microporous film and non-woven backsheets [0037] and inkjet printing on the film; McCormack (US 6,719,742 B1) teaches inkjet printing on microporous film and non-woven; Reed et al (WO 99/60973) and (WO 99/32164): teaches graphics printed on backsheets of diapers wherein the backsheets comprise microporous film material wherein the graphic is printed directly on the garment facing surface of the film and the backsheet further comprises a nonwoven material joined with the garment facing surface of the film and the graphic is visible through the film; Schleinz et al (US 5,458,590) teaches graphics printed on backsheets of diapers wherein the backsheets comprise microporous film material wherein the graphic is printed directly on the garment facing surface of the film and the backsheet further comprises a nonwoven material joined with the garment facing surface of the film and the graphic is visible through the film.

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571)272-4934. The examiner can normally be reached on Monday through Friday 9:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ginger T Chapman/

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